

1 STEPHANIE YONEKURA

2 Acting United States Attorney

3 LEON W. WEIDMAN

4 Assistant United States Attorney

5 Chief, Civil Division

6 ROGER E. WEST

7 Assistant United States Attorney

8 First Assistant Chief, Civil Division

9 California Bar No. 58609

10 Room 7516, Federal Building

11 300 North Los Angeles Street

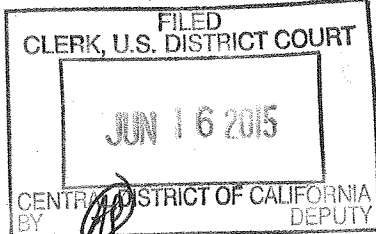
12 Los Angeles, California 90012

13 Telephone: (213) 894-2461

14 Facsimile: (213) 894-7819

15 E-mail: roger.west4@usdoj.gov

Lodged proposed Order



16 Attorneys for the United States of America

17 UNITED STATES DISTRICT COURT
18 FOR THE CENTRAL DISTRICT OF CALIFORNIA
19 WESTERN DIVISION

20 IN RE:

21 LETTERS ROGATORY FROM THE
22 RECHTBANK AMSTERDAM CIVIL
23 BENCH, NETHERLANDS

MC 15-00207-RAO

CV MISC. NO. _____

APPLICATION FOR ORDER
APPOINTING THE ASSISTANT
UNITED STATES ATTORNEY AS
COMMISSIONER

(28 U.S.C. § 1782)

24 The United States of America by the undersigned, Stephanie Yonekura,
25 Acting United States Attorney for the Central District of California, by Leon W.
26 Weidman, Assistant United States Attorney, Chief, Civil Division, by Roger E.
27 West, Assistant United States Attorney, First Assistant Chief, petitions this Court
28 for an Order pursuant to § 1782 of Title 28 of the United States Code, in the form
submitted, appointing Roger E. West, Assistant United States Attorney, First
Assistant Chief, Civil Division, or his successor in office, as Commissioner and
directing the taking of evidence from Debra Spitler who, it has been determined,

1 resides or can be found within the jurisdiction of this Court, pursuant to the terms
2 and conditions set forth in the Letters Rogatory issued by the above-entitled court
3 in Amsterdam, Netherlands, pertinent to the case A.E.T. Europe B.V. v. Raak
4 Technologies Inc., reference case number 424385 / HA ZA 09-1109.

5 Attached as Exhibit 1 is a copy of the Letters Rogatory from the court in
6 Netherlands. The court in Netherlands is asking that the following evidence be
7 obtained from Debra Spitler by means of a deposition. Notice will be given to the
8 court in Netherlands of the date and time of the taking of evidence.

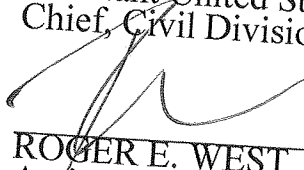
9 The only restrictions explicitly stated in 28 U.S.C. § 1782 are: (1) that the
10 request be made by a foreign or international tribunal or any interested person; (2)
11 that the testimony or material requested be for use in a proceeding in a foreign or
12 international tribunal; and (3) that the person or entity from whom the discovery is
13 sought is a resident of or can be found in the district where the application is filed.
14 See In Re Request for Judicial Assistance from the Seoul District Criminal Court,
15 Seoul, Korea, 555 F.2d 720, 723 (9th Cir. 1977); United States v. Sealed 1, Letter
16 of Request for Legal Assistance from the Deputy Prosecutor General of the
17 Russian Federation, 235 F.3d 1200, 1205 (9th Cir. 2000) (citing Korea at 555 F.2d
18 at 723 that, "Under the statute the only restrictions explicitly stated are that the
19 request be made by a foreign or international tribunal, and that the testimony or
20 material requested be for use in a proceeding in such a tribunal"); In Re Bayer AG,
21 146 F.3d 188, 192 (3rd Cir. 1998).

22 All these three requirements are met in this case. First, the request was
23 made by the Rechtbank Amsterdam Civil Bench in Netherlands, which is a foreign
24 tribunal. Second, there is a proceeding in that court entitled, A.E.T. Europe B.V. v.
25 Raak Technologies Inc., reference case number 424385 / HA ZA 09-1109, and the
26 evidence being sought is for use in that proceeding by that court. Finally, it has
27 been determined that Debra Spitler resides or can be found within the jurisdiction
28 of this Court.

1 Therefore, the United States respectfully requests the Court to sign the
2 Order, being lodged under separate cover, appointing Roger E. West, Assistant
3 United States Attorney, First Assistant Chief, Civil Division, or his successor in
4 office, as Commissioner, and directing the taking of testimony from Debra Spitler,
5 to enable the court in Netherlands to complete the proceedings before it.

6 DATED: This 15th day of June, 2015.
7
8
9

10 STEPHANIE YOKENURA
11 Acting United States Attorney
12 LEON W. WEIDMAN
13 Assistant United States Attorney
14 Chief, Civil Division

15 
16 ROGER E. WEST
17 Assistant United States Attorney
18 First Assistant Chief, Civil Division
19 Attorneys for the United States of America
20
21
22
23
24
25
26
27
28